Filed 1/3/19 In re Paris B. CA2/2

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

In re Paris B., a Person Coming Under the Juvenile Court Law.	B288579 (Los Angeles County Super. Ct. No. DK08460C)

Rosalinda B. et al.,

Petitioners,

v.

THE SUPERIOR COURT OF LOS ANGELES COUNTY,

Respondent,

LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

ORIGINAL PROCEEDING. Petition for extraordinary writ. (Cal. Rules of Court, rule 8.456) Kristen Byrdsong, Commissioner. Petition denied.

Rosalinda B. and Travis P., in pro. per., for Petitioners.

Mary C. Wickham, County Counsel, Kristine P. Miles, Acting Assistant County Counsel, and Tracey Dodds, Principal Deputy County Counsel, for Real Party in Interest.

Children's Law Center of Los Angeles – CLC3, Rebecca Stahl and Nancy Sarinana for child Paris B.

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At the 18-month hearing in this juvenile dependency case, the juvenile court terminated reunification services to the parents of a three-year-old child and ordered the matter set for a permanency planning hearing. The parents have filed a writ petition with this court seeking to overturn the juvenile court's orders. Because those orders are supported by substantial evidence, we deny the petition.

FACTS AND PROCEDRAL BACKGROUND[1]

I. Family

Rosalinda B. (mother) and Travis P. (father) are the parents of Paris B. Paris was born in January 2015.

II. Exertion of Dependency Jurisdiction

In February 2015, the Los Angeles Department of Children and Family Services (the Department) filed a petition asking the

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1 Many of these facts are drawn from our prior, unpublished opinion in this case. (*Los Angeles County Department of Children & Family Servs. v. Travis P. (Travis P.*), B267188 (May 19, 2016).)

juvenile court to exert dependency jurisdiction over Paris. Around the same time, the juvenile court ordered Paris detained from her parents and placed her in foster care.

In August 2015, the juvenile court exerted dependency jurisdiction over Paris on three grounds: (1) mother's bipolar diagnosis, coupled with her refusal to take her prescribed medications and instead to self-medicate with marijuana, constituted mental and emotional problems that put Paris at substantial risk and serious physical harm (rendering jurisdiction appropriate under Welfare and Institutions Code section 300, subdivision (b)(1))[2], (2) father's diagnosis of adjustment disorder with mixed anxiety and depressed mood, coupled with his suicidal ideation and past mental health issues, constituted mental and emotional problems that put Paris at substantial risk of serious physical harm (rendering jurisdiction appropriate under section 300, subdivision (b)(1)), and (3) mother's longstanding use of marijuana, including while breastfeeding Paris, constituted a history of substance abuse that had resulted in her neglect of Paris's two half siblings and thus put Paris at substantial risk of serious physical harm (rendering jurisdiction appropriate under subdivision (j) of section 300).

The juvenile court ordered Paris removed from mother and father and ordered the Department to provide both parents with reunification services. More specifically, the court ordered the Department to provide—and the parents, as part of their "case plans," to participate in—(1) individual counseling, (2) parenting classes, (3) drug testing, and (4) supervision to ensure that the parents were taking their prescribed medications. Father

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[2] All further statutory references are to the Welfare and Institutions Code unless otherwise indicated.

appealed, and we affirmed the juvenile court's jurisdictional findings in an unpublished opinion. (*Travis P.*, *supra*, B267188.)

III. Reunification

In March 2016, the juvenile court held a status review hearing to assess whether to keep Paris removed from her parents and whether to retain dependency jurisdiction over Paris. The Department reported that the parents had completed their case plans and were regularly visiting Paris. Consistent with the Department's recommendation, the juvenile court issued a home-of-parent order specifying that Paris was to be returned to her parents' custody, ordered the Department to provide—and the parents to participate in—family maintenance services, and retained jurisdiction over Paris to monitor the parents' progress in the services.

IV. Second Removal

Just over two months after Paris was returned to her parents, the Department filed a supplemental petition with the juvenile court to remove Paris from their custody. The Department argued that removal was necessary to protect Paris because mother and father (1) had stopped participating in the court-ordered family maintenance services; (2) had pulled Paris's two half siblings out of school after the school reported possible parental neglect because one of the half siblings had a diaper rash; and (3) had lied to the Department about their living situation when they reported they were residing in a hotel when they were, in fact, residing in their car, and then claimed they lacked funds for lodging because Paris's half sibling literally flushed $800 in cash down the toilet. The Department also presented evidence that mother had pulled the hair, slapped and kicked one of Paris's half siblings and had been rough with the

other; that Paris and her two half siblings were filthy and reeked of urine, and the two female children (ages one and three) had yeast infections; and that both parents had made remarks reflecting an indifference to the children—namely, mother had said, "I don't give a shit if [the social worker] takes my kids," and father had said the children were not his problem anymore and that he only cared about Paris (and not her half siblings).

In late August 2016, the juvenile court sustained the supplemental petition, ordered Paris removed from her parents and placed in foster care, and ordered the Department to provide—and the parents, as part of their case plans, to participate in—(1) parenting classes for special needs children, (2) individual counseling, (3) anger management classes, (4) random drug testing, and (5) monitoring to assure that they were taking their prescribed medications.

V. Status Review Hearing

In July 2017, the juvenile court held a contested, 18-month status review hearing.

By that time, the parents' visitation with Paris had been spotty. Between August 2016 and early March 2017, the parents did not visit Paris *at all* because, in father's words and as mother agreed, "[t]he judge never ordered us to." The parents resumed visits in March 2017, but the visits involved little interaction: During the first hour-long visit, the parents left Paris in her stroller the entire time, and on the next visit, had to be told to remove Paris from her stroller after 25 minutes. During the visits when the parents took Paris out of her stroller, they did not "engage" with Paris, and Paris wanted to leave and go home with her foster mother.

The parents had only intermittently complied with their case plans. They refused to submit to drug testing, insisting that they were ordered to participate in "random drug testing"—not "on demand drug testing."

The juvenile court found that the parents had not complied with their case plans, but also found that the Department had not provided reasonable reunification services to them. The court accordingly ordered another six months of reunification services.

VI. Further Status Review Hearing

In January and March 2018, the juvenile court held a further status review hearing to assess the parents' progress with reunification services.

By that time, mother and father had participated in individual therapy and had completed parenting and anger management classes. The parents had also regularly visited Paris, but the parents seemed disinterested (father would regularly check his watch), and Paris was excited to leave with her foster mother. The assigned social worker testified that mother and father had completed their case plans, but opined that, in her view, the parents were not ready to care for Paris (1) because their care for Paris, even after completing their first case plan, was so inadequate as to necessitate Paris's removal, (2) because they opted not to visit Paris for over six months simply because they were not "ordered to do so," and (3) because their interactions with Paris during visits continued to reflect "absolutely no bond," which could lead to further neglect if Paris were returned to them. Father testified that the social worker lied in her reports, that the social worker threatened never to recommend returning Paris to them, and proffered reasons why the children were filthy and reeked of urine in May of 2017.

After hearing the evidence and entertaining argument, the juvenile court terminated further reunification services and ordered the matter set for a permanency planning hearing. The court found, by clear and convincing evidence, that the Department had provided reasonable reunification services to the parents. The court acknowledged that the parents had completed their case plans but found by a preponderance of the evidence that returning Paris to their custody would still "pose a substantial danger to [her] . . . physical and mental health." In support of this finding, the court cited the parents' (1) "failure to actually interact as parents with [Paris] during their visits," (2) "failure to develop a bond," and (3) practice of "blam[ing] everyone else" for their predicament. In the court's view, the parents "ha[d] not gained the knowledge to ensure the safety of [Paris and her half siblings] who need special care as they have special needs." In making these findings, the court specifically found the social worker to be credible and father *not* to be credible.

VII. Writ Petition

Father and mother filed a notice of intent to file a writ petition. Their attorney filed a letter with this court indicating that he would not be filing a writ petition because he saw no meritorious issues. (See *Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570, 582.) Father and mother, appearing pro se, filed a timely writ petition.

DISCUSSION

In their petition, father and mother essentially make two challenges to the juvenile court's order terminating reunification services and setting the matter for a permanency planning hearing: (1) the court's finding that returning Paris to their

custody would be detrimental to her was not supported by substantial evidence, and (2) the Department did not provide reasonable reunification services.

I. Substantial Evidence Challenge to Detriment Finding

When a juvenile court conducts a review hearing 18 months after a dependent child is removed from his or her parent, the court must decide whether to return the child to that parent or to keep its removal order intact, terminate reunification services and set a permanency planning hearing. (§ 366, subds. (a)(2) & (b).) Returning the child is statutorily preferred, and must be ordered unless the court "finds, by a preponderance of the evidence, that the return of the child to his or her parent . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." (§ 366.22, subd. (a).) The Department bears the burden of proving such a detriment. (*Ibid.*) We review a juvenile court's order denying return and terminating services for substantial evidence. (*Constance K. v. Superior Court* (1998) 61 Cal.App.4th 689, 705 (*Constance K.*).)

Because the case "plan is usually developed to . . . overcome the problem that led to removal [of the child] in the first place" (*Blanca P. v. Superior Court* (1996) 45 Cal.App.4th 1738, 1748 (*Blanca P.*)), a parent's "failure . . . to participate regularly and [to] make substantive progress in court-ordered treatment programs" is "prima facie evidence" that returning the children to that parent would be detrimental (§ 366.22, subd. (a)). However, a parent's compliance (or substantial compliance) with the case plan does not dictate a finding in the parent's favor. That is because detriment can be proven in other ways. Those other

ways include evidence regarding (1) "the manner in which the parent has conducted himself or herself in relation to [the child] in the past," (2) the "failure of the [child] to have lived with the natural parent for long periods of time," (3) "instability in terms of management of a home," and (4) "properly supported psychological evaluations which indicate return to a parent would be detrimental to [the child]" (*Constance K.*, *supra*, 61 Cal.App.4th at pp. 704-705), at least if those evaluations are "reasonably specific and objective." (*Blanca P.*, at p. 1750.)

Substantial evidence supported the juvenile court's finding that returning Paris to father and mother would "create a substantial risk of detriment to [her] safety, protection, or physical or emotional well-being." Although both parents had completed their case plans following Paris's second removal from their custody, the court had good reason to be concerned that their completion meant little. That is because the parents had completed similar case plans prior to reunification in mid-2016, but their doing so had not resulted in any better care for Paris or her half siblings. To the contrary, after the children were returned to the parents' custody, the parents stopped participating in the court-ordered family maintenance services, were neglectful in their care of the children (as they were filthy, reeked of urine and the two very young females had yeast infections), and were nearly hostile in their indifference to the children (as mother indicated she did not "give a shit" if the kids were taken from her and father said he only cared about one of the three kids). Such "past failure[s]," our Supreme Court has noted, can be "predictive of the future." (*In re Jasmon O.* (1994) 8 Cal.4th 398, 424.) Paris had only lived with the parents approximately four months out of her three and a half years of

life—one and a half months immediately after her birth and two and a half months after reunification. Perhaps even more troubling (and more telling), the parents opted not to visit Paris for six months after she was re-detained simply because the court did not order them to visit. The parents' housing arrangements—and their willingness to lie about them—did not reflect stability. And the social worker's opinion that the parents were not ready to care for Paris, while not the opinion of a clinical psychologist, was not "too vague to constitute substantial, credible evidence of detriment" because it was supported by all of the "reasonably specific and objective" acts (see *Blanca P.*, *supra*, 45 Cal.App.4th at p. 1750) we have outlined.

The parents raise two arguments in response. First, they assert that their therapists provided letters to the court generally indicating that each was making progress and specifically noting "positive indications that [father] will be able to provide a safe and supportive home for his children." However, the court addressed these reports and expressly discounted them because the "therapist or counselor has not seen the parents interact with" Paris or her half siblings. Under substantial evidence review, we must decline the parents' invitation to accord the therapists' reports different weight than the juvenile court. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 545.)

Second, the parents argue that the Department social worker's reports contain various inaccuracies regarding the number of classes father attended (two versus three), regarding the identity of the monitor during one visitation, and the like. To the extent the parents ask us to second guess the juvenile court's finding that the social worker was more credible than father, we reject that request as beyond our authority. (*In re Misako R.*,

supra, 2 Cal.App.4th at p. 545.) To the extent the parents ask to re-evaluate the juvenile court's finding of detriment in light of these inaccuracies, the parents do not explain how the inaccuracies in any way undermine the court's finding; we independently do not see how they do.

II. Reasonable Reunification Services

When a child is removed from her parents in a dependency proceeding, the juvenile court is in most cases required to "order the social worker"—here, the Department—"to provide child welfare services to the child" and to her parents. (§ 361.5, subd. (a); see also, § 362, subd. (d) [empowering juvenile court to direct "reasonable orders to the parents . . . of [a] child" in dependency proceedings].) To effectuate this mandate, the court will set forth the services that must be provided to any involved parent in a "case plan." The court is thereafter required to hold periodic status review hearings—typically, at six months, 12 months and 18 months after the child's removal from her parents—and, at those hearings, to assess "[t]he extent of the" Department's "compliance with the case plan." (§ 366, subd. (a)(1)(B), § 366.21, subds. (e)(8) [6-month hearing], (f)(1) [12-month hearing]; § 366.22, subd. (a)(3) [18-month hearing].) A court may not keep the removal order in effect unless, among other things, it finds by clear and convincing evidence that the Department has made a "good faith effort" to provide the "reasonable services" previously ordered by the juvenile court. (*Ibid.*; *Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594; *Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164.) We review a juvenile court's finding that the Department has made good faith efforts to provide reasonable services for substantial evidence. (*T.J. v. Superior Court* (2018) 21 Cal.App.5th 1229, 1238.)

Substantial evidence supports the juvenile court's finding, by clear and convincing evidence, that the Department made "a good faith" effort to provide father and mother with "reasonable services." Indeed, the Department provided the parents with all of the services that the juvenile court ordered.

The parents raise three arguments in response. First, they contend that the Department should have also offered them a specialized form of parent/child interactive therapy to enhance their interactions with Paris. We reject this contention. The Department provided individual therapy, as well as parenting classes. These are "reasonable services" in light of the juvenile court's case plan, particularly when the law calls for *reasonable* services, not "the best" services "that might be provided in an ideal world." (*In re T.W-1* (2017) 9 Cal.App.5th 339, 346-347.) Second, the parents point to the juvenile court's finding *at the first status review hearing* that the Department did not provide them reasonable services. This is true, but irrelevant. The remedy for the Department's failings at the first status review hearing was to extend the period of reunification period to allow the Department to comply with its duty to provide reasonable services. (*In re A.G.* (2017) 12 Cal.App.5th 994, 1001, 1005.) The court so ordered, and the Department so complied. The parents supply no authority for the proposition that once the Department missteps, it is forevermore precluded from correcting that misstep. Lastly, the parents suggest that the therapy and classes offered did not focus on children with special needs; the record indicates to the contrary.

In light of our conclusion that substantial evidence supports the juvenile court's finding that reasonable services were provided, we have no occasion to reach the parties' dispute

over whether the reasonableness of services matters when the question is whether to terminate those services after the default statutory maximum of 18 months of such services has expired.

DISPOSITION

The petition for extraordinary relief is denied. The stay of the section 366.26 hearing is dissolved. This opinion shall become final immediately upon filing. (Cal. Rules of Court, rule 8.490(b)(2)(A).)

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, J.
HOFFSTADT

We concur:

_____, P.J.
LUI

_____, J.
ASHMANN-GERST